

AMERICAN ARBITRATION ASSOCIATION

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In the Matter of the Arbitration between:

**FRATERNAL ORDER OF POLICE,
LODGE No. 5**

-AND-

**AWARD
AND OPINION**

CITY OF PHILADELPHIA, PA

Docket No. 14 390 02182-09

(P/O Holley Satterfield PN [REDACTED] (30) thirty-day Suspension)

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BEFORE: ERNEST WEISS, ARBITRATOR

APPEARANCES: For the Union: BRIDGET WALSH, ESQ.
 JENNINGS SIGMOND, P. C.

For the City: NICOLE S. NORRIS, ESQ.
 DEPUTY CITY SOLICITOR

ISSUE: Was the thirty-day disciplinary suspension of P/O Holley
Satterfield PN [REDACTED] for just cause and if not, what shall be the
remedy?

PRELIMINARY STATEMENT

Having been selected in accordance with the provisions of the Collective Bargaining Agreement between the above parties, I conducted an arbitration hearing on March 24, 2011 at the offices of the American Arbitration Association in Philadelphia, PA, at which time the parties were afforded an opportunity to present evidence and argument in support of their respective positions.

BACKGROUND

Following a minor off-duty incident on 08/20/08, P/O Holley Satterfield PN [REDACTED] (now Corporal Satterfield) the grievant herein, received a thirty-day (30) disciplinary suspension for Conduct Unbecoming an Officer, Section 1:00 (Unspecified.), Section 1.12: (Making a false statement to an official Department investigation) and Insubordination Section 3.01: (Refusal to obey proper order from superior officer.) Additionally, she was transferred from her assignment in the 35th District to the 14th District. However, the transfer is not an issue herein.

RELEVANT PROVISIONS OF THE NOTICE OF SUSPENSION.

CONDUCT UNBECOMING AN OFFICER, Section 1.00: (Unspecified.)

In that on Wednesday, 08/20/08, approximately 9:40PM, while off duty, you were involved in a minor auto accident in the 7200 block of Frankford Avenue. While trying to parallel park, you made contact with the front of a parked vehicle, owned and occupied by Ms. N [REDACTED] S [REDACTED], causing minor damage. When Ms. S [REDACTED] exited her vehicle and confronted you, you denied that any contact was made between the cars. You then left the scene of the accident and moved your vehicle to another location, in the 7200 block of Charles Street. You parked your vehicle and walked back to Frankford Avenue, where you entered Reales Bar. P/O J [REDACTED] C [REDACTED] [REDACTED], assigned to RPC #1515, was dispatched to the scene after Ms. S [REDACTED] called 911. P/O C [REDACTED] went into Reales Bar, told you about the accident, including damage noted to the other vehicle. P/O C [REDACTED] asked you for your driver's license and proof of insurance, but you refused. P/O

C [REDACTED] repeated his request. You again refused to produce your information, but told P/O C [REDACTED], "by the way, I am a 369." You left the scene of the accident and refused to cooperate with proper police requests for your information in order to complete the accident report.

CONDUCT UNBECOMING AN OFFICER, Section 1.12:
(Making a false statement in response to an official Department investigation.)

In that on Thursday, 12/11/08, you were interviewed by Lieutenant W [REDACTED] D [REDACTED] in reference to an off duty incident on 08/20/08 at 7200 Frankford Avenue. You were asked, "Were you asked to produce your Drivers's License to the Officer and Supervisor on location?" You answered, "I was asked by the Officer not the Supervisor." Sergeant D [REDACTED] R [REDACTED] responded to this incident and stated that he asked you three times to produce your driver's license and that you refused all three times. You were asked, "Were you asked to produce your Police identification to the Officer and Sergeant on location?" You answered, "No, I was asked by the Captain who I showed it too." Sergeant R [REDACTED] stated that he asked you to produce your Police Identification two times and that you refused both times. Captain F [REDACTED] B [REDACTED] arrived on the scene and overheard Sergeant R [REDACTED] asking you for your Police Identification and Driver's license and your refusal.

INSUBORDINATION, Section 3.01: (Refusal to obey proper orders from superior officer.)

In that on Wednesday, 08/20/08, approximately 9:40PM, while off duty, you were involved in a minor auto accident in the 7200 block of Frankford Avenue. After you refused to provide your driver's license and proof of insurance to P/O J [REDACTED] C [REDACTED], the responding officer, P/O C [REDACTED] called for a supervisor. You told P/O C [REDACTED] that you were a "369." Sergeant D [REDACTED] R [REDACTED] was dispatched and with P/O C [REDACTED], spoke to you about the accident. You again denied making contact with the other vehicle. During the conversation, Sergeant R [REDACTED] asked you for your driver's license three times and for your police identification twice. You refused all his requests for your information. Captain F [REDACTED] E [REDACTED] was driving northbound on Frankford Avenue and saw S [REDACTED] R [REDACTED] and P/O C [REDACTED] standing outside with other people in front of Reales Bar and stopped to investigate. Captain E [REDACTED] overheard Sergeant R [REDACTED] request for your information and

your refusal. Captain B [REDACTED] then asked you for your police identification and driver's license. You did produce your police identification but not your driver's license. At this time, Sergeant R [REDACTED] explained the circumstances of the situation. Captain B [REDACTED] asked Police Radio to have your commanding officer, Captain M [REDACTED] contact him. While waiting for the call, Captain B [REDACTED] spoke to Ms. S [REDACTED] and noted damage to her vehicle. Captain B [REDACTED] received a call on his cell phone from Captain M [REDACTED] and notified him that you were in an accident and refused to produce your driver's license. Captain M [REDACTED] explained that he spoke with you and that you would cooperate and produce your license. A short time later, you gave your driver's license to Captain B [REDACTED]. You refused to cooperate with proper requests from your superiors for your information, including three requests from Captain B [REDACTED] for your driver's license and several requests from Sergeant R [REDACTED] for your driver's license and police identification.

In addition to receiving a thirty (30) day suspension for the above violations, you were transferred from your assignment in the 35th District to the 14th District.

CONTENTIONS OF THE PARTIES

The FOP argued in relevant part that there was no just cause to suspend the grievant. It pointed out that touching a bumper with her rear bumper during parallel parking is not unusual. It further argued that she did not leave the scene of an accident, as charged, since there was no accident. She merely moved her car around the corner when she noticed from across the street that the other driver was pacing in front of her car with keys in her hand. The grievant became concerned that the other driver may damage her paint by deliberately scratching her car with her keys. After she moved her car the grievant returned and joined her friends in the bar.

When P/O C [REDACTED] approached her in the Bar she informed him that she was a "369" but informed him that there was no accident and so there was no need to show him her driver license. She did not deny that when Sgt. R [REDACTED]

arrived on the scene she also refused to give him her license stating that there was no accident. Finally, when Captain M [REDACTED], her commanding officer, called and spoke to her she agreed to produce her driver license to Captain B [REDACTED].

Finally the FOP stressed that the grievant was in fact promoted to Corpral sometime after the incident herein.

The City argued that discipline was for just cause. Under cross examination she did not deny that eventually she produced her license but initially she had refused. There is also no question that she moved her car after making contact with the complainant's car therefore she left the scene of the accident.

The City further stressed that she was repeatedly asked to produce her driver license and refused to do so. It argued that the three witnesses who testified at the instant hearing were all credible and agreed that the grievant kept refusing to show her driver license to her superior officers until she was finally urged to do so by her commanding officer.

The City concluded that the grievant was disciplined for just cause and as a result, asked that her grievance should be denied.

DISCUSSION AND OPINION

It is generally accepted in arbitration that a substantial economic disciplinary penalty, such as a thirty-day suspension without pay, must be viewed in the context of the particular circumstance and the proven fact pattern associated with the specific alleged transgression by the Officer involved.

As correctly argued before me by the FOP, in determining whether this economic punishment was for just cause, a number of factors must be considered including the nature of the alleged transgression and any other circumstance related to the discipline, as it may impact on the traditional elements of just cause in this particularly dangerous work environment.

The FOP argued without contradiction that the grievant has an otherwise unblemished disciplinary record.

Therefore, in deciding the merits of this particular issue, I also considered the very unusual circumstance that the grievant encountered during her off-duty leisure time driving to a local bar with another off duty officer friend.

As described above, the grievant found herself in an unexpected confrontation involving the owner of a parked car that she happened to bump with her rear bumper as she and her passenger friend, were backing into the parking spot. When N [REDACTED] S [REDACTED] who was sitting in the parked car, came out of her car complaining that the grievant hit her car, the grievant allegedly answered "that's what bumpers are for" and proceeded to cross the street with her passenger on their way to the bar.

However, the grievant testified that when she saw S [REDACTED], the complainant, from across the street with keys in her hand, she returned to her car and moved it to a nearby street. In the meantime the driver called 911 and reported a minor accident disclosing the license plate number of the car that bumped hers.

In her testimony before me at the instant hearing, S [REDACTED] stated in relevant part that she was hit twice and so she beeped her horn. When she came out of her car and complained to the grievant, she merely responded "that's what bumpers are for." S [REDACTED] was unaware that the grievant was a police officer since she was in plain clothes. She also stated that, as a result of the incident, her bumper had only a line scratch which she had buffed out at a cost of fifty dollars.

P/O J [REDACTED] C [REDACTED] arrived on the scene pursuant to a radio call in his uniform car 1515. He further stated that he encountered the grievant in the bar and asked her for her license and registration but she refused to give it to him. She informed him that she was a "369" meaning a police officer. He informed her that his supervisor Sgt. R [REDACTED] was on his way. However, when Sgt. R [REDACTED],

who was in uniform, asked her for her driver license she refused to give it to him also. Additionally, P/O C [REDACTED] stated that when Captain F [REDACTED] B [REDACTED] arrived she also refused to show her driver license. Captain B [REDACTED] asked her three times (C5) but she refused. Eventually, after a phone conversation with her own commanding officer, she produced the necessary credentials.

Sgt. D [REDACTED] R [REDACTED] [REDACTED] testified in part that on the night in question he responded to a call regarding a minor auto accident. When he confronted the grievant near the scene she refused to give him her identification and her driver license. He requested to see her credentials three times but she refused. He also pointed out that he gave a detailed statement to Lt. Z [REDACTED] on 09/28/08 (C3) in evidence. Finally, in detailed Memorandum to the grievant's Commanding Officer of the 35th District dated 8/21/08, Captain B [REDACTED] requested formal disciplinary action against P/O Satterfield. The PBI recommended 55 days of suspension but it was reduced to thirty days at the recommendation of the Commissioner.

The extensive testimony herein clearly demonstrates that the grievant was guilty of Insubordination Section 3.01 Refusal to obey proper orders from superior officers. She has an obligation to follow the established rule of "obey now, grieve later." This ancient employee relations rule is especially critical in a quasi military setting such as a Police Department.

The grievant is apparently acquainted with the crucial obligation to obey a proper order from a higher authority since she had no prior discipline in her record during her approximately fifteen (15) years of unblemished service. Her otherwise clean record was apparently recognized since she received a promotion to Corporal after the incident herein.

However, the evidence and testimony is clear and convincing that she had been repeatedly ordered to produce her driver license and refused to do so until she was finally counseled by her then commanding officer to produce the documents

requested by all three officers on the scene. Her consistent refusal to do so was a glaring incident of insubordination by refusing to obey proper orders from superior officers.

Additionally, the charge of Conduct Unbecoming an Officer, Section 1.12: was also conclusively proven. Sgt. R [REDACTED] Testified under oath that he asked her three times to produce her driver license and twice to also produce her police ID but she refused. However, in her written statement she was asked "Were you asked to produce your Police Identification to the Officer and Sergeant on location?" the grievant answered: "No, I was asked by the Captain who I showed it too."(C6) Prior to the Q&A she was informed of the consequences of making false statements in response to an official Departmental investigation. She was certainly forewarned that the penalty can be "...ten (10) days suspension to dismissal under Section 1.12: of the Disciplinary Code."(C6)

Therefore, having thoroughly considered all the evidence including the testimony, arguments and allegations of both parties, I have determined, for the above stated reasons that the thirty-day disciplinary suspension of then Police Officer Holley Satterfield was for just cause and I make the following Award:

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The undersigned arbitrator, having been designated in accordance with the Arbitration Agreement entered into by the above parties, and having duly heard the proofs and allegations of the parties, AWARDS as follows:

For the above stated reasons, the thirty-day suspension of then Police Officer Holley Satterfield [REDACTED] PN# [REDACTED], was for just cause.

The grievance is hereby denied.



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ERNEST WEISS, ARBITRATOR

STATE OF: NEW JERSEY

COUNTY OF: SOMERSET

On this 24th day of April, 2014, before me personally came and appeared Ernest Weiss, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged that he executed same.

JILL E. PARKAS
Notary Public for the State of New Jersey
My Comm. Expires 09/11/15